



U.S. Department of Justice

*United States Attorney
Western District of Pennsylvania*

*Federal Courthouse
Room A330
17 South Park Row
Erie, Pennsylvania 16501-1158*

814/452-2906

December 30, 2005

Thomas W. Patton, Assistant
Federal Public Defender
1111 Renaissance Centre
1001 State Street
Erie, Pennsylvania 16501

Re: United States of America v.
BARRY WAYNE LEWIS
Criminal No. 05-24 Erie

Dear Mr. Patton:

This letter sets forth the agreement by which your client, BARRY WAYNE LEWIS, will enter a plea of guilty in the above-captioned case. The letter represents the full and complete agreement between BARRY WAYNE LEWIS and the United States Attorney for the Western District of Pennsylvania. The agreement does not apply to or bind any other federal, state, or local prosecuting authority.

Upon entering a plea of guilty, BARRY WAYNE LEWIS will be sentenced under the Sentencing Reform Act, 18 U.S.C. §3551, et seq. and 28 U.S.C. §991, et seq. The Sentencing Guidelines promulgated by the United States Sentencing Commission will be considered by the Court in imposing sentence. The facts relevant to sentencing shall be determined initially by the United States Probation Office and finally by the United States Court by a preponderance of the evidence.

A. The defendant, BARRY WAYNE LEWIS, agrees to the following:

1. He will enter a plea of guilty to Count One of the Indictment at Criminal No. 05-24 Erie, charging him with violating Title 18, United States Code, Sections 922(g)(1) and 924(e), pursuant to Rule 11 of the Federal Rules of Criminal Procedure.



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2. At the time BARRY WAYNE LEWIS enters his plea of guilty, he will deposit a special assessment of \$100 in the form of cash, or check or money order payable to "Clerk, U.S. District Court". In the event that sentence is not ultimately imposed, the special assessment deposit will be returned.
3. BARRY WAYNE LEWIS waives the right to take a direct appeal from his conviction or sentence under 28 U.S.C. §1291 or 18 U.S.C. §3742, subject to the following exceptions:
 - (a) If the United States appeals from the sentence, BARRY WAYNE LEWIS may take a direct appeal from the sentence.
 - (b) If (1) the sentence exceeds the applicable statutory limits set forth in the United States Code, or (2) the sentence unreasonably exceeds the guideline range determined by the Court under the Sentencing Guidelines, BARRY WAYNE LEWIS may take a direct appeal from the sentence.
 - (c) As a condition of his guilty plea, BARRY WAYNE LEWIS may take a direct appeal from his conviction limited to the following issue: whether the district court erred in denying Lewis's motion to suppress evidence. If BARRY WAYNE LEWIS takes a direct appeal raising this issue and prevails in the appeal, he may withdraw his plea of guilty. If he does not take a direct appeal or does not prevail in the appeal, the plea of guilty shall stand.

The foregoing reservations of the right to appeal on the basis of specified issues do not include the right to raise issues other than those specified.

BARRY WAYNE LEWIS further waives the right to file a motion to vacate sentence, under 28 U.S.C. §2255, attacking his conviction or sentence, and the right to file any other collateral proceeding attacking his conviction or sentence.

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B. In consideration of and entirely contingent upon the provisions of Parts A and C of this agreement, the United States Attorney for the Western District of Pennsylvania agrees to the following:

1. The United States Attorney retains the right of allocution at the time of sentencing to advise the sentencing Court of the full nature and extent of the involvement of BARRY WAYNE LEWIS in the offense charged in the Indictment and of any other matters relevant to the imposition of a fair and just sentence.
2. Prior to sentencing, the United States Attorney will, orally or in writing, move that, pursuant to §3E1.1 of the Sentencing Guidelines, the Court reduce the offense level by 3 levels for acceptance of responsibility, on the grounds that the offense level prior to application of §3E1.1 is 16 or greater, and BARRY WAYNE LEWIS timely notified authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.
3. The United States Attorney will take any position she deems appropriate in the course of any appeals from the sentence or in response to any post-sentence motions.

C. BARRY WAYNE LEWIS and the United States Attorney further understand and agree to the following:

1. The penalty that may be imposed upon BARRY WAYNE LEWIS is:
 - (a) A term of imprisonment of not more than ten (10) years. However, if it is determined that the defendant has three previous convictions for a violent felony or a serious drug offense, or both, then pursuant to 18 U.S.C. §924(e), the term of imprisonment is not less than fifteen (15) years to a maximum of life imprisonment;
 - (b) A fine of not more than \$250,000;

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- (c) A term of supervised release of three (3) years (or five (5) years if 18 U.S.C. §924(e) applies);
- (d) A special assessment under 18 U.S.C. §3013 of \$100.

2. This agreement does not preclude the government from pursuing any civil or administrative remedies against BARRY WAYNE LEWIS or his property.

This letter sets forth the full and complete terms and conditions of the agreement between BARRY WAYNE LEWIS and the United States Attorney for the Western District of Pennsylvania, and there are no other agreements, promises, terms or conditions, express or implied.

Very truly yours,




MARY BETH BUCHANAN
United States Attorney

I have received this letter from my attorney, Thomas W. Patton, Assistant Federal Public Defender, have read it and discussed it with him, and I hereby accept it and acknowledge that it fully sets forth my agreement with the Office of the United States Attorney for the Western District of Pennsylvania. I affirm that there have been no additional promises or representations made to me by any agents or officials of the United States in connection with this matter.


BARRY WAYNE LEWIS

3/23/07
Date

Witnessed by:


THOMAS W. PATTON, ASSISTANT
FEDERAL PUBLIC DEFENDER
Counsel for BARRY WAYNE LEWIS